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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
OF THE STATE OF CALIFORNIA

In the Matter of:	) OAH NO. 2017120269
	) NMLS FILE NO. 694065
THE COMMISSIONER OF BUSINESS	)
OVERSIGHT,	)
	) FIRST SUPPLEMENTAL STATEMENT OF
	) ISSUES IN SUPPORT OF NOTICE OF
Complainant,	) INTENTION TO ISSUE ORDER DENYING
v.	) MORTGAGE LOAN ORIGINATOR
	) LICENSE APPLICATION
HOWARD MARK GERBER,	)
	)
Respondent.	) Date: Feb. 15, 2018
	) Time: 9:00 a.m.
	) Place: 1515 Clay Street, Suite 206,
	) Oakland, California 94612

Pursuant to Government Code section 11507, the Complainant, the Commissioner of Business Oversight (Commissioner), files her first supplemental statement of issues and alleges and charges Respondent, Howard Mark Gerber (Gerber), as follows:

**I.**

**INTRODUCTION**

1. The Commissioner licenses and regulates mortgage loan originators, finance lenders, and brokers under the California Financing Law (Fin. Code, § 22000 et seq.) (CFL).<sup>1</sup> The Commissioner

<sup>1</sup> Effective October 4, 2017, the name of the “California Finance Lenders Law” changed to the “California Financing Law.” (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.) For purposes of this document, a reference to the California

also licenses and regulates mortgage loan originators, residential mortgage lenders, and residential mortgage loan servicers under the California Residential Mortgage Lending Act (Fin. Code, § 50000 et seq.) (CRMLA).

2. In addition to her reasons stated in her statement of issues dated November 1, 2017, the Commissioner intends to issue an order denying Gerber's July 7, 2017 application for a mortgage loan originator (MLO) license pursuant to Financial Code sections 22109.1 and 50141 because, as of November 6, 2017, (1) Gerber is not employed by, nor subject to the supervision of, a finance lender or broker that has obtained a license from the commissioner pursuant to the CFL, a requirement for licensure under Financial Code section 22109.1, subdivision (a)(6), and (2) Gerber is not employed by, nor subject to the supervision of, a residential mortgage lender or servicer that has obtained a license from the Commissioner pursuant to the CRMLA, a requirement for licensure under Financial Code section 50141, subdivision (a)(6).

## II.

### **GERBER IS NOT EMPLOYED BY A CFL OR CRMLA LICENSEE**

3. To become licensed by the Commissioner as a mortgage loan originator (MLO), an individual must be employed by and subject to the supervision of a CFL or CRMLA licensee.

4. From July 10, 2016 to November 6, 2017, Gerber was employed by and subject to the supervision of Reverse Mortgage Funding LLC, which is licensed under both the CFL and CRMLA.

5. On or about November 6, 2017, Gerber's employment and supervision from Reverse Mortgage Funding LLC ended. Gerber has not been employed or supervised by any CFL or CRMLA licensee since.

6. The Commissioner finds that Gerber is neither employed by, nor subject to the supervision of, a finance lender or broker that has obtained a license from the Commissioner pursuant to the CFL, a requirement for licensure under Financial Code section 22109.1, subdivision (a)(6).

7. The Commissioner finds that Gerber is neither employed by, nor subject to the supervision of, a residential mortgage lender or servicer that has obtained a license from the Commissioner

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Financing Law means the California Finance Lenders Law before October 4, 2017 and the California Financing Law on and after that date. (Cal. Fin. Code, § 22000.)

1 pursuant to the CRMLA, a requirement for licensure under Financial Code section 50141,  
2 subdivision (a)(6).

3 **III.**

4 **SUPPLEMENTAL GROUNDS TO DENY GERBER'S APPLICATION**

5 8. Both the CFL and CRMLA require the Commissioner to deny a mortgage loan originator  
6 license unless the applicant is employed by, and subject to the supervision of, a licensee of the  
7 applicable division. (Fin. Code, §§ 22109.1, subd. (a)(6) and 50141, subd. (a)(6).)

8 **IV.**

9 **CONCLUSION**

10 Based on Gerber's lack of employment by a licensee as of November 6, 2017, the  
11 Commissioner additionally asserts by this first supplemental statement of issues that she is justified  
12 under Financial Code sections 22109.1 and 50141 to deny the issuance of a MLO license to Gerber.

13 WHEREFORE, the Commissioner prays that the application for a mortgage loan originator  
14 license filed by Howard Mark Gerber on July 7, 2017 be denied.

15  
16 Dated: January 9, 2018  
17 Sacramento, California

JAN LYNN OWEN  
Commissioner of Business Oversight

18  
19 By \_\_\_\_\_  
20 JEREMY F. KOO  
21 Counsel  
22 Enforcement Division  
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